

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 30, 2005 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #05012

PROPOSAL: To allow the sale of alcoholic beverages for consumption on the premises for a Noodles & Company Restaurant at 2801 Pine Lake Road.

CONCLUSION: This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises, and is an appropriate land use at this location.

<u>RECOMMENDATION:</u>	Conditional Approval
-------------------------------	----------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, South Ridge Village 8th Addition.

LOCATION: 2801 Pine Lake Road (southeast of the intersection of South 27th Street and Pine Lake Road)

EXISTING ZONING: H-4 General Commercial

EXISTING LAND USE: Commercial

SURROUNDING LAND USE AND ZONING:

North:	Commercial (South Pointe Pavillions)	B-5
South:	Office/Commercial (being developed)	O-3
East:	Commercial	H-4
West:	Commercial	H-4

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area.

HISTORY: **August, 1996** - SP#1629 was approved to allow a 215,000 square foot planned service commercial development located at the southeast corner of South 27th Street and Pine Lake Road.

February, 1994 - CZ#2740 was approved establishing the existing O-3 and H-4 zoning in this area.

BACKGROUND: This request is to allow the sale of alcohol for consumption on the premises at Noodles and Company, a new restaurant located in the commercial center southeast of South 27th Street and Pine Lake Road. The site plan shows the restaurant occupying Suite X and an outdoor patio area for approximately 2,951 square feet of floor area. It is one of several tenants in the multi-tenant commercial building still under construction.

ANALYSIS:

1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)

27.63.680: Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.

There is a cross-parking agreement over this center, and this tenant is granted the use of the required number of parking spaces in accordance with LMC Chapter 27.67. Based upon floor area, 30 spaces are required.

The application notes that two of the spaces are designated for "To-go" customers. However, the designation requires written agreement between the City and all parties, and Public Works states they will not support this type of specific designation where the parking stalls are provided for joint tenant use. Unless such an agreement is executed, the designation must be removed from the site plan.

(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).

The licensed premises is located within a larger commercial center zoned H-4, surrounded by H-4, O-3, B-2, and B-5 zoning. The licensed premises meets the 100' separation requirement as there is no day care facility, park, church, state mental health institution, or residential district near this use. The nearest residential district is in excess of 320' away to the south of the site.

The licensed premises includes both the 2,800 square foot indoor restaurant and a 150 square foot outdoor seating area. The outdoor seating is on the north side of the building facing Pine Lake Road in area which is also designated as a sidewalk area for pedestrian access. An unobstructed walkway at least 6' wide (as measured from the back of the curb to the decorative columns at the edge of the outdoor seating area) must be provided to accommodate pedestrian access. This walkway must be clearly delineated on the site plan.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

The required parking is part of the larger South Ridge center, where all lighting is subject to both the Parking Lot Lighting Standards and the Environmental Performance Standards of the City of Lincoln Design Standards. Compliance with these standards is reviewed at the time of building permits.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of this application.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

No such devices are shown as part of this application.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

There is no potential for access doors being located within 150' of a residential district, as noted previously the nearest residential district is in excess of 320' away from the site.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to the premises is from Pine Lake Road, South 29th Street, or Porter Ridge Road, none of which are considered a "residential street" at this location.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

Planning Commission approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department had no objection to this request.

PUBLIC WORKS: Public Works and Utilities noted that the outdoor seating must not impede pedestrian access, and that parking spaces must not be designated for specific uses. The review is attached.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises as designated on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.
 - 2.1.1 Submit six copies of a revised site plan that includes the following:
 - 2.1.1.1 Show the "To-go" parking designation deleted.
 - 2.1.1.2 Show the decorative columns near the outdoor seating area.
 - 2.1.1.3 Show the dimension from the back of curb to the decorative columns adjacent to the outdoor seating area, and the dimensions of the licensed premises including the outdoor seating area.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
 - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will, AICP, 441-6362, bwill@lincoln.ne.gov
Planner
March 16, 2005

OWNER: South Ridge Village, LLC
8200 Cody Drive Ste F
Lincoln, NE 68512
(402) 423-7377

**APPLICANT/
CONTACT:** Jenny Gannon
Noodles & Company
2590 Pearl Street
Boulder, CO 80302
(720) 214-1906



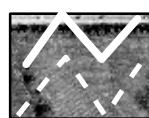
2002 aerial

Special Permit #05012 2801 Pine Lake Rd.

Zoning:

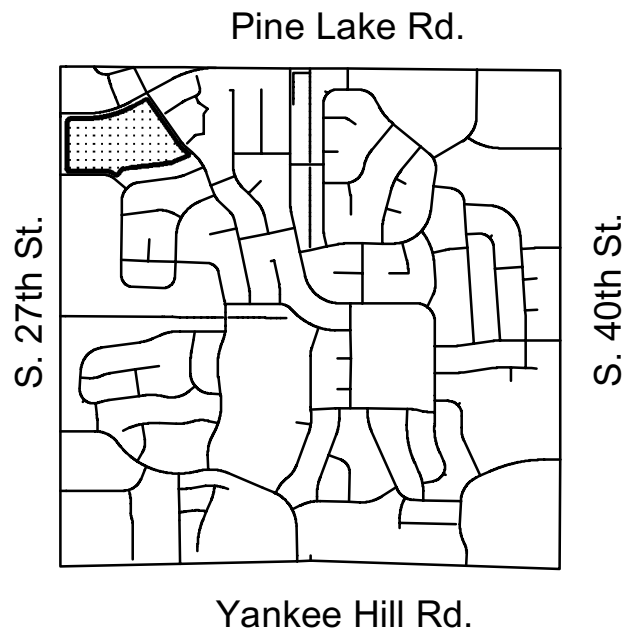
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 19 T9N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



- OUTLINES SHIPPING CENTER

- PREMISES

- TO-GO PARKING
2 SPACES

- OUTDOOR SEATING
AREA

2801 PINE LAKE ROAD

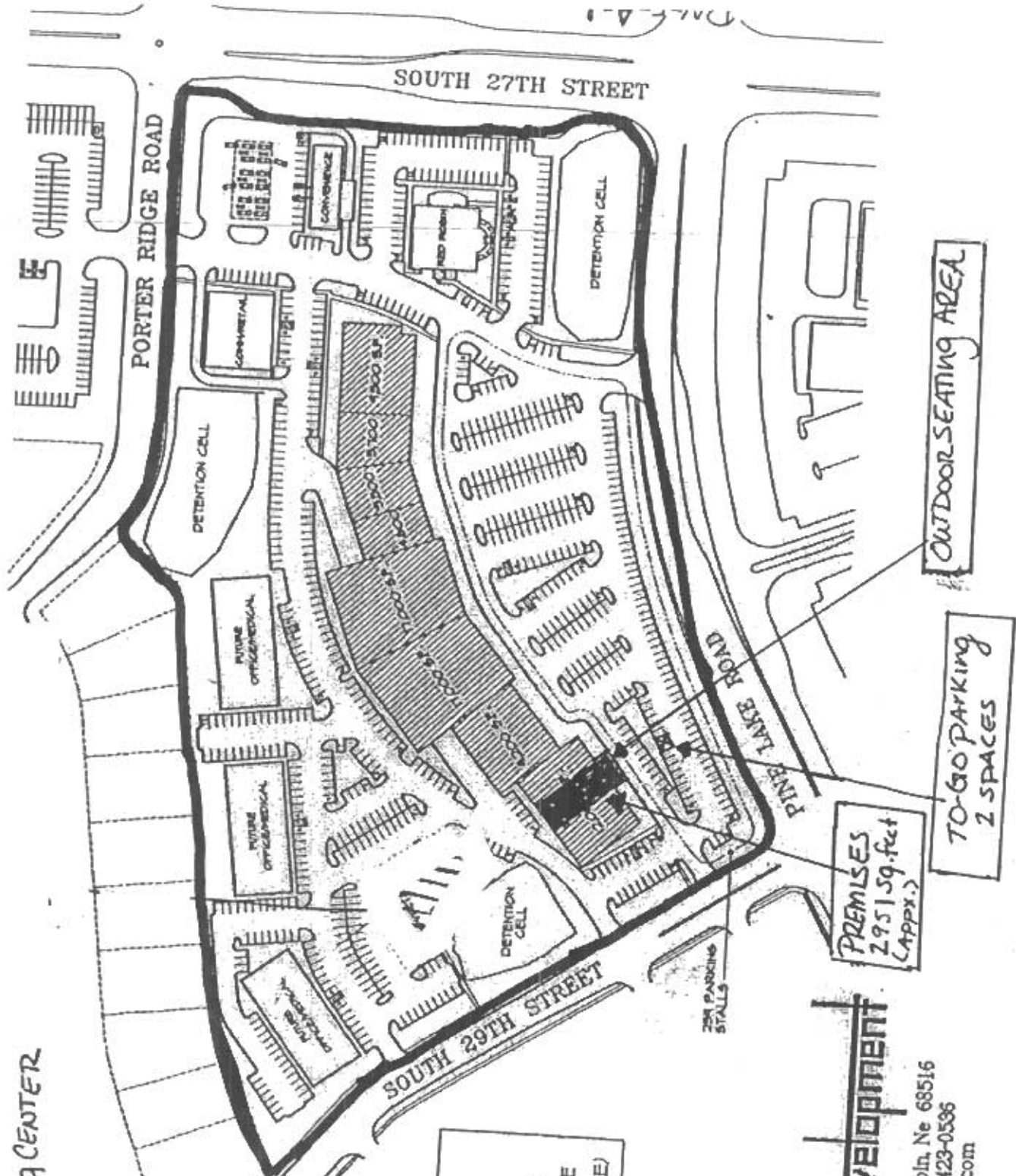
- COMMERCIAL/RETAIL SPACE
- 80,500 SQUARE FEET AVAILABLE
- 414 +/- PARKING STALLS AVAILABLE
- 5.15 STALLS PER 1000 SQ.FT. OF SPACE)

SITE PLAN

KRUEGER

DEVELOPMENT

2929 Pine Lake Road, Suite C • Lincoln, Ne 68516
Phone 402-423-7377 • Fax 402-423-0596
www.kruegerdevelopment.com



Project	Location	Site Plan	Shops	Demographics	Full Size
Description		Renderings	Restaurants		Site Plan

VIA OVERNIGHT MAIL

February 24, 2005

Brian J. Will
City of Lincoln--Planning Department
555 South 10th Street, Suite 213
Lincoln, Nebraska 68508

Re: Liquor Sales Special Permit--Purpose Statement

Mr. Will:

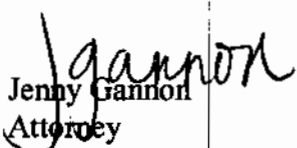
First of all, thank you for your help with our application for the above-referenced permit. Noodles & Company is a global noodle restaurant serving pasta and noodle dishes from around the world (Japanese Pan Noodles, Wisconsin Mac & Cheese), soups, salads, desserts, beer and wine. We are applying for the special permit so we can sell beer and wine for consumption on the Premises and the patio. This restaurant is scheduled to open on May 4, 2005.

As part of our application please find the following documents enclosed: (1) Purpose Statement; (2) submittal requirements; (3) application; (4) landlord consent; (5) legal description; (6) assessor information; (7) ownership certificate; (8) 6 copies of interior drawing and site plan; and finally (9) a check in the amount of \$250.00.

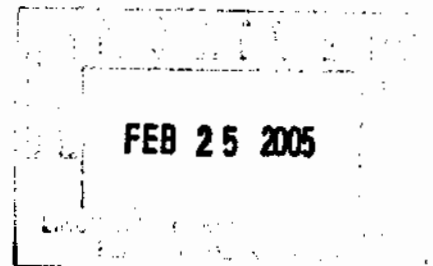
We have reviewed the criteria enunciated in 27.63.680 and are confident that we meet all the conditions therein. Specifically, subsection (a) requires that we have access to one space per 100 square feet of gross area. Because we have 2801 square feet in the Premises, we need to have access to 28 parking spaces. As you can see from the enclosed site plan, we have access to 33 spaces immediately outside of our Premises. Our Landlord has agreed that for purposes of our application, we may designate 28 spaces as Noodles & Company spaces. Two of those spaces are designated for "To Go" customers. In addition, there are 259 parking stalls in front of the Shopping Center.

Also, as discussed, please let me know if you need additional site plans. Based on our conversation, I do not think we need any waivers, but if I am incorrect, please do not hesitate to contact me. My direct number is (720) 214-1906.

Regards,


Jenny Gannon
Attorney

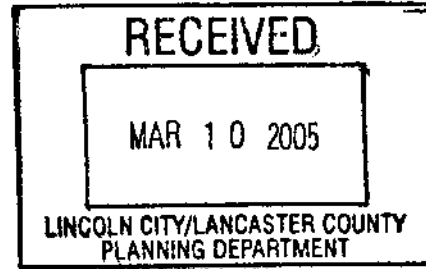
Enclosures



VIA 2-DAY MAIL

March 4, 2005

Brian J. Will
City of Lincoln--Planning Department
555 South 10th Street, Suite 213
Lincoln, Nebraska 68508



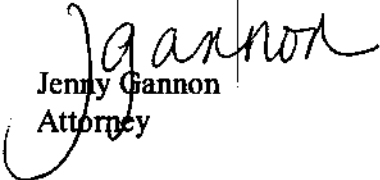
Re: Liquor Sales Special Permit--Addendum

Mr. Will:

I wanted to address some of the concerns you raised during our conversation yesterday. Specifically, our patio area will be about 150 square feet, making the total Premise square footage 2951 square feet. As such, we will now need to have access to 30 parking spaces. As you can see from the enclosed site plan, we have access to 33 spaces immediately outside of our Premises. Our Landlord has agreed that for purposes of our application, we may designate 32 spaces as Noodles & Company spaces. Two of those spaces are designated for "To Go" customers. In addition, there are 259 parking stalls in front of the Shopping Center.

To address your other questions, please note that we are going to enclose the patio area with stanchions and, it appears from the site plan that our tables are about 10 feet from the curb. Finally, please note that I have deleted the "Permitted Building" language from the site plan from our Landlord. Please let me know if you need any additional information. My direct number is (720) 214-1906.

Regards,


Jenny Gannon
Attorney

Enclosures



fax form

To: Brian Will

Date: 3/10/05

From: Jenny Gannon

Pages: 2

Fax #: (402) 441-6377

Subject: Curb
Information

☐ URGENT

☐ FOR REVIEW

☐ PLEASE COMMENT

☐ PLEASE REPLY

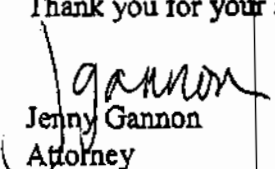
☐ PLEASE RECYCLE

Brian:

Thanks for your call earlier today. Enclosed please find a site plan that details where our patio is in relation to the curb. I have indicated on the drawing where the licensed premise will be. This drawing is based on a scale of 1"= 40'. The dotted line that juts out represents the columns that are shown on the floor plan. The distance between the columns and the curb is approximately 8 feet or greater. As we discussed, our tables will be inside of the columns. Thus, our tables will definitely meet the 6' minimum.

Please do not hesitate to contact me at (720) 214-1906 if you have any questions or need any additional information.

Thank you for your assistance with this matter.


Jenny Gannon
Attorney

Memorandum

To:	Brian Will, Planning Department
From:	Charles W. Baker, Public Works and Utilities
Subject:	The Noodle Shop Company Alcohol Sales Special Permit #05012
Date:	March 7, 2005
cc:	Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan and the request for Special Permit #05012 Alcohol Sales at the proposed site of Noodles & Company restaurant site located at 2801 Pine Lake Road. Public Works has the following comments:

- The attached site plan shows the outdoor seating area as blocking pedestrian traffic on the sidewalk area and forcing pedestrians into the drive aisle of the parking lot.
- The designation of the parking stalls in the joint parking lot for To-Go Parking in this commercial use area according to Chapter 27.67 requires that "the adequacy of the joint parking arrangement, shall be a written agreement between the City and all parties to such use." Public Works will not support designation of parking stalls in joint tenant use other than that required of ADA.